

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEONTA DEPREE JOHNSON,

Plaintiff,

File no: 1:19-CV-682

v.

HON. ROBERT J. JONKER

UNKNOWN GUST,

Defendant.

_____ /

**ORDER REGARDING MAGISTRATE'S
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on February 26, 2021 (ECF No. 38). The Report and Recommendation was duly served on the parties. No objections have been filed under 28 U.S.C. § 636(b)(1)(C).

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 38) is approved and adopted as the opinion of the Court as to all federal claims. The Court, however, declines to exercise supplemental jurisdiction over the state law claim in Count III.

IT IS FURTHER ORDERED that Defendant's combined motion to dismiss and for summary judgment (ECF No. 13) is **GRANTED IN PART AND DENIED IN PART** as follows:

Defendant's motion to dismiss the Eighth Amendment claim (Count I) is **DENIED**.

Defendant's motion for summary judgment as to the First Amendment retaliation claim (Count II) is **GRANTED**.

IT IS FURTHER ORDERED that Defendant's motion to dismiss the state law assault and battery claim (Count III) is **DISMISSED AS MOOT** because the Court exercises its discretion to decline supplemental jurisdiction over the claim.

IT IS FURTHER ORDERED that this matter will proceed on Plaintiff's Count I only.

Dated: March 22, 2021

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE